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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.								
10/502,280	05/11/2005	Andreas Myka	617-011873-us	3300								
2512 PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824	7590 08/11/2008		<div>EXAMINER</div> <div>LIN, WEN'TAI</div> <table border="1"><thead><tr><th>ART UNIT</th><th>PAPER NUMBER</th></tr></thead><tbody><tr><td>2154</td><td></td></tr></tbody></table> <table border="1"><thead><tr><th>MAIL DATE</th><th>DELIVERY MODE</th></tr></thead><tbody><tr><td>08/11/2008</td><td>PAPER</td></tr></tbody></table>		ART UNIT	PAPER NUMBER	2154		MAIL DATE	DELIVERY MODE	08/11/2008	PAPER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/502,280

Applicant(s)

MYKA ET AL.

Examiner

Wen-Tai Lin

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12-21 and 24-36 is/are rejected.
- 7) ☒ Claim(s) 10-11 and 22-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-36 are presented for examination.
2. The text of those sections of Title 35, USC code not included in this action can be found in the prior Office Action.

Claim Rejections – 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 33-36 are rejected under 35 U.S.C. 101 because the language of the claims because the processor usable medium comprising the computer program product may include intangible medium such as carrier waves in a transmission medium. In order to claim a subject matter that is tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101, Applicant is recommended to amend the claimed subject matter to explicitly exclude intangible medium by using the term “computer storage medium” instead of the processor usable medium.

Claim Rejections - 35 USC § 103

4. Claims 1-9, 12-21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Durrett [U.S. Pat. No. 5964830] in view of Official Notice.

5. As to claim 1, Durrett teaches the invention substantially as claimed including:

a system comprising: a plurality of terminals, each being provided with an application [e.g., col.7, lines 5-14] for acquiring personal content and a transmitter and receiver for communication with a telecommunications system, said personal content including at least one of photographs, text, video, speech, calendar information, and location information [e.g., photo-imaged fingerprint, encryption keys (e.g., 13A, Fig.5A), user ID, password and various types of personally owned files are personal content – see col. 2, lines 40-49; col.5, lines 45-51 and col. 7 line 54 – col. 8 line 3];

memory in the terminal for storing at least a first part of the personal content acquired [e.g., col.2, lines 40-49; col.6, lines 42-51; note that even though the encryption key derived out of fingerprint is stored in a local ROM, other portions of personal content such as newly scanned fingerprint, user ID and password must be temporarily stored in local memory before they are being processed and/or transmitted];

at least one remote data repository connected to the telecommunications system for storing at least a second part of the personal content acquired by the terminals, whereby at least one of the repositories is assigned for the use of each terminal; [i.e., for authentication and

authorization purposes a copy of encryption key, user ID and password must also be stored at the access provider. Further, encrypted files are also stored in the remote non-volatile memory (see col.5, lines 45-51; col.8, lines 4-9));

an application [e.g., authentication/authorization program] for selecting said at least a second part of the personal content and transferring it between the memory and the at least one remote data repository through said telecommunications system, the application including predetermined criteria the fulfillment of which initiates said transfer [e.g., col.2, lines 40-49; col.8, lines 4-19; a predetermined criterion for a user to access his remote files is that (i) the user is correctly authenticated (based on the entered first parts of personal content: ID and password) and (ii) an encryption key is constructed/identified based on the first part of the personal content (fingerprint)];

an extraction block for extracting data from said at least a first part of the personal content and an association block [e.g., 13A, Fig. 5A] for associating said extracted data with said at least a second part of the personal content [e.g., col.5, lines 45-51; note that the store files (i.e., the second part of the personal content) are encrypted with keys derived from the fingerprint (i.e., the first part of the personal content)]; and

a service provision block responsive to said association block to generate and/or provide a personalized service incorporating at least one of said photographs, text, video, speech, calendar information, and location information and using said extracted data associated with said at least a second part of the personal content [e.g., col.8, lines 4-19; i.e., the service provides access to encrypted files based on the encryption key formed out of the user's fingerprint].

Durrett does not specifically teach that the portable device is a mobile terminal which uses wireless communication.

However, Official Notice is taken that portable device equipped with wireless communication capability is well known in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to also provide the portable device with such capability because wireless communication would enhance the device's portability/mobility and Durrett does not preclude the use of more sophisticated portal devices [col.3, lines 4-14].

6. As to claim 2, Durrett teaches that the system further comprising:

A selection block for selecting data to be retrieved from an external data storage, the selection being made at least partially on the basis of said extracted data [e.g., encrypted files are selected that match the encryption key derived from the fingerprint];

a receiver for receiving said selected data;

and an association block adapted to associate said received data with the personal content stored in the data repository, wherein the service provision means are adapted to utilize said received data for generating and/or providing said personal service [col.2 lines 40-54].

7. As to claim 3, Durrett teaches that the system further comprising:

communication means adapted to retrieve at least one stored object and/or item of data extracted from the remote data repository;

and a server including application software adapted to perform an action as a result of which information is generated, the action to utilize the retrieved object and/or said data extracted [col.2 lines 50-54; Figs. 6A-6C].

8. As to claim 4, Durrett teaches that the system further comprising means for storing said extracted information in said remote data repository [i.e., in the process of establishing User ID or password and pre-stored it with the remote server, both User ID and password are originally derived from the user entered data that are temporarily stored in local RAM or registers].

9. As to claim 5, Durrett does not specifically teach that the system further comprising means for generating charging information on the basis of the action performed.

However, Official Notice is taken that charging-by-hours is one of the popular billing method for ISP providers. Although Durrett does not teach how its virtual disk subscribers are charged. It is an obvious option to one of the ordinary skill in the art to implement such a billing method. That is, by generating charging information on the basis of the action performed because it offers incentive to infrequent users to take this billing option.

10. As to claims 6-7, Durrett teaches that the system further comprising:

a subscription management block for receiving a subscription request at a server and processing said request on said server, and

a data retrieval and selection block responsive to said processing to allow access of the application software to an object and/or stored information in the remote data repository

[Abstract; col. 1, lines 40-65; col.5, lines 45-51 and col.8, lines 4-19; note these features are inherent to Durrett's provision server because it has to process a new user's request for virtual disk space and upon successful authentication and receiving an encryption key the server must make some personal content available to the user].

11. As to claim 8, Durrett further teaches that the service requested is identified in the request [col.2, lines 44-49].

12. As to claim 9, Durrett further teaches that an object and/or extracted information is identified in the request, the object and/or extracted information defining the action to be performed by the server [Abstract; note that in the download service, a user needs to identify the requested object to be downloaded via the server].

13. As to claim 12, Durrett further teaches that said means for extracting data from said personal content include at least means to perform i) optical character/text recognition or ii) pattern recognition [note that the key matching process is a pattern recognition process based on the scanned fingerprint [col.5 lines 45-51 and col. 2, lines 50-54].

14. As to claims 13-21, 24-26, 29-30 and 33-34 since the features of these claims can also be found in claims 1-9 and 12, they are rejected for the same reasons set forth in the rejection of claims 1-9 and 12 above.

15. As to claims 27, 31 and 35, Durrett further teaches that the OCO software of each portal device is activated by a boot-up program [e.g., Fig. 6A and col. 7, lines 1-14]. Although Durrett is silent about activating the server-side service provision block, it is obvious to an ordinary skill in the art to use a service daemon to start the service provision block because it automates the startup of a service process, thereby releasing Durrett's provision server from the tedious startup procedures.

16. As to claims 28, 32 and 36, Durrett is silent about posing definition information on requirement and different options for service requests. However it is well known that in order for a web server to understand each client's requests the request itself must be serviceable and understandable by the server. Thus, it is obvious to one of ordinary skill in the art to pose definition information on requirement and different options for service requests in Durrett's system because Durrett's users need to know the way to construct a request message that falls within the range of the server's promised services.

17. Claims 10-11 and 22-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

18. Applicant's arguments filed on 6/18/2008 for claims 1-9, 12-21 and 24 have been fully considered but they are not deemed to be persuasive.

19. Applicant argues that:

(i) Durrett does not teach an application stored in a mobile terminal that may select a second part of personal data from a remote data repository and combine it with another part of a personal data file stored in memory of a mobile telephone to obtain services that use the combined information (see Applicant's remarks on page 14, paragraph #2).

(ii) Durrett's encryption keys, user ID and password are used to identify the user to the virtual disk server only. The service provider to the user does not incorporate the encryption keys, user ID and password as suggested by the examiner.

Initially, Applicant is reminded that the claim language does not require that the first part and second part of the personal content be "combined." Instead, the claims use the word "association" – associating extracted data (from the first part) with a second part of the personal content. Further, the claim language requires an application "for acquiring personal content ..." instead of "select a second part of personal data from a remote repository ..." For example, a relevant feature in claim starts of at the fifth clause as "an application for selecting ...", which is different from the application recited in the second clause. This means that the application shown in the fifth clause does not have to reside in the mobile terminal.

As to points (i) and (ii), based on Durrett's teaching at col.5, lines 45-51 and col.7, lines 5-19, it is clear that the OCO is in charge of object association between the extracted data (from the locally stored first part of personal content) with the remotely stored second part of the personal content. Specifically, as recited in claim 1: the personal content "include at least one of photographs, text, video, speech, calendar information, and location information", it is clear that

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all personal files that have been entered from Durrett's portal device and stored in the user's virtual disk partition may be lumped together and called it "personal content" (note that the claim language does not even require that these files be entered into the system at the same time).

Based on Durrett's teachings at col.5, lines 45-51, files that are said to be decrypted by a user's encryption key must have been encrypted by the same key. As such, the cited passage suggests that a fingerprint-encrypted file (which forms the second part of the personal content) must be associated (or matched) with a key that is derived from a user's fingerprint (which forms the extracted data from the first part of the personal content) in order for the user to gain access to the file (see col.8, lines 4-19), a service provided by Durrett's server.

In another scenario, because of the rather broad scope of the phrase "personal content", one may relate the "first part" and the "second part" of the "personal content" to the user's ID and password, respectively, while the personal content may include the user's ID, password and/or encryption keys. The authentication process, which requires that a locally stored first part of the personal content be matched to a remotely stored second part of the personal content.

For at least the above reasons, it is submitted that Durrett's teaching renders the aforementioned claims obvious.

20. Because Applicants have failed to challenge any of the Examiner's "Official Notices" stated in the previous office action in a proper and reasonable manner, they are now considered as admitted prior art. See MPEP 2144.03.

21. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

22. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Examiner note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially

teaching all or part of the claimed invention, as well as the contest of the passage as taught by the prior art or disclosed by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wen-Tai Lin whose telephone number is (571)272-3969. The examiner can normally be reached on Monday-Friday(8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(571) 273-8300 for official communications; and

(571) 273-3969 for status inquiries draft communication.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wen-Tai Lin

August 7, 2008

/Wen-Tai Lin/

Primary Examiner, Art Unit 2154

